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To: Supervisor Gloria Molina, Chair
Supervisor Mark Ridley-Thomas
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From: William T Fujioka
Chief Executive Officer

SACRAMENTO UPDATE

This memorandum contains pursuit of County positions on three bills that would: 1) declare housing areas constructed as government-owned projects as blighted areas for the purpose of redevelopment; 2) reform pension and retirement benefits for public employees; and 3) allow public hospitals to conduct internal reviews of Treatment Authorization Requests; and updates on three County-sponsored measures related to conducting meetings of the board of supervisors outside of the county seat, streamlining the Termination of Parental Rights appeals process to promote adoptions, and enhancement of the County's homeowner notification program.

Pursuit of County Position on Legislation

AB 1641 (Hall), which as amended on May 11, 2010, would declare that blighted areas may include housing areas constructed as government-owned housing projects constructed prior to January 1, 1960, and that these housing areas may be characterized by one or more of the economic or physical conditions that cause blight.

AB 1641 also would require a redevelopment agency that is undertaking activities or funding involving the described housing areas to: 1) comply with all the requirements of Community Redevelopment law; 2) provide replacement housing on at least a one-to-one basis of all existing public housing units; 3) require the replacement housing units to be affordable and occupied by extremely low, very low, and lower income

households at the same or lower income levels as the households displaced from the public housing units; 4) restrict replacement housing by income level for at least 55 years; 5) provide replacement housing units by the unit type required by the displaced household; 6) allow the replacement housing units to be located inside the project area or within a five-mile radius of the public housing that is being replaced; 7) require households displaced by the removal of the housing areas to be offered permanent replacement housing at the initial time of relocation, unless the household decides not to accept the replacement housing; and 8) allow replacement housing units to be either publicly or privately owned.

AB 1641 would authorize a project in these housing areas to include the development of additional privately owned housing units that would be available to lower or moderate households, and workforce market-rate housing units, retail services, commercial, industrial, educational, recreational and other uses to serve the residents of the area and public improvements inside and adjacent to the project area.

Existing law authorizes a city or county to create redevelopment agencies for the purpose of curing blight. Physical and economic blight is defined in the Community Redevelopment Reform Act of 1993 (AB 1290 - Chapter 942, Statutes of 1993), which sought to curb redevelopment abuse by tightening the showing of blight needed to invoke redevelopment powers. The Act placed other limitations and requirements on projects and mandated pass-through of a statutorily established share of diverted property tax increment to affected localities.

The Chief Executive Office and County Counsel indicate that AB 1641 would modify the requirements for establishing blight by declaring that a blighted area may include housing areas constructed as government-owned housing projects constructed prior to January 1, 1960, and only would require that these housing areas be characterized by one of the conditions of blight specified in Community Redevelopment law. The bill would not require that blight be prevalent and substantial, which would make it easier for a redevelopment agency to make a blight finding for government-owned housing projects. In addition, the bill would allow a redevelopment agency to develop privately owned housing units available to households of low or moderate income and to include in the project market-rate housing units, retail services, commercial, industrial, educational, recreational and other uses, which may allow redevelopment agencies to spend tax increment revenue on activities outside the scope of redevelopment.

County Counsel indicates redevelopment projects are only exempt from appropriations limits (Gann Limit) established by the State Constitution to the extent that a redevelopment agency spends tax increment revenue on redevelopment activities. AB 1641 may allow a redevelopment agency to engage in certain types of activities that

potentially would not otherwise qualify as redevelopment activity, which would allow a redevelopment agency to spend tax increment revenue without concern for Gann Limits.

According to County Counsel, the modification of the requirements for establishing blight by declaring that a blighted area may include government-owned housing projects is inconsistent with the objectives of the Community Redevelopment Reform Act of 1993. This bill is a significant modification of the requirements for establishing blight because it would allow redevelopment agencies to avoid making findings of blight as established in redevelopment law. AB 1641 also would set an undesirable precedent, as cities and redevelopment agencies would attempt to match particular project areas within their jurisdiction with a declaration of blight, which would circumvent the requirements to determine blight in current law. If redevelopment agencies seek and are successful in obtaining similar legislation to declare project areas are blighted without using the existing process to demonstrate blight, the precedent-setting under AB 1641 would result in a negative financial impact for the County and other local taxing agencies.

The Community Development Commission indicates that AB 1641 would have no direct impact on its redevelopment projects or its public housing developments.

County Counsel and this office oppose AB 1641. Therefore, consistent with existing Board policy to support measures that strengthen blight findings requirements to prevent redevelopment abuse, and policy to oppose any redevelopment legislation which would limit or repeal provisions of the Community Redevelopment Reform Act of 1993 (AB 1290), which tighten the definition of physical and economic blight, **the Sacramento advocates will oppose AB 1641.**

AB 1641 is sponsored and supported by the City of Los Angeles. There is no registered opposition on file. AB 1641 passed the Senate Transportation and Housing Committee by a vote of 5 to 2 on June 22, 2010. This measure is currently in the Senate Rules Committee.

AB 1987 (Ma), which as amended on June 1, 2010, would: 1) require the board of each State and local public retirement system to establish accountability provisions that would include an ongoing audit process to ensure that a change in a member's salary, compensation, or remuneration is not made for the purpose of enhancing a member's retirement benefits, a practice known as pension spiking; 2) limit the calculation of a member's final compensation to an amount not to exceed the average increase in compensation received within the final compensation period and the two preceding years by employees in the same or a related group as that member; 3) require a Board

of each State and local public retirement system to establish a requirement that a retired person may not perform services for any employer covered by a State or local retirement system until that person has been separated from service for a period of at least 180 days.

According to the California State Association of Counties (CSAC), this measure would address pension spiking abuses, where employees artificially inflate their compensation in the year(s) immediately preceding retirement in order to receive larger pensions than they otherwise would be entitled to receive. However, the measure falls short of a complete fix. CSAC indicates that the provision regarding retirees' ability to return to work for a public agency is problematic under this bill. The provision limits all flexibility for counties in dealing with shrinking budgets and loss of expertise that occurs when long-term county employees retire. Therefore, CSAC opposes the measure unless this provision is deleted or amended.

The Chief Executive Office Employee Relations Branch indicates that AB 1987 contains several provisions which would negatively affect the County, including:

- It would eliminate the statute of limitations as to amounts owed by a retirement system to its members, but it would retain a three year statute of limitations as to amounts owed by members to a retirement system. The measure would also establish boards of retirement as the bodies that determine, conclusively, the application of the statute of limitations on a case by case basis. The proposed statute of limitations would expose counties to potentially significant liability.

- The bill contains language that places limitations on pensionable income for non-represented employees. The special limitation language essentially states that an affected non-represented employee may not receive an increase in pensionable income during a period of final compensation, and during two years prior, that is greater than the increase received by similarly situated employees in the closest related group or class. This could disproportionately affect higher level management employees who may occupy one of these position classes.

- The Ventura County's Deputy Sheriff' Association v. Board of Retirement (1997), also known as the Ventura case, had the effect of adding a variety of pay items to pensionable income; including in-service lump sum payoffs for excess accumulated vacation, sick leave, and other paid leave benefits. In addition to creating significant costs for the affected counties, the Ventura case has made it substantially more difficult and costly for counties to manage the payroll and control the liability for accumulated paid leave benefits without jeopardizing public

services. AB 1987 appears to endorse rather than correct the problems that the Ventura case created for Counties.

- Currently, the County allows retirees to return after a 90-day break in service. AB 1987 would require a six-month break in service. This provision would impact the County's ability to bring back retirees to perform essential job duties. The bill establishes a 180-day waiting period for hiring retirees on a temporary basis for up to 120 days per fiscal year. Retirees are a key source of much needed expertise, especially immediately after retirement.

- The bill bestows certain regulatory/enforcement responsibilities on county's boards or retirement for noncompliance with the various provisions of bill. It also provides that boards of retirement may determine whether compensation is provided in any given instance for the principal purpose of enhancing a member's retirement benefits.

The Chief Executive Office recommends an oppose-unless-amended position to address the issues identified above. Therefore, consistent with existing Board policy to oppose legislation that mandates or authorizes compensation or benefit changes without approval of the Board of Supervisors and policy regarding bringing back retirees to perform essential duties, **the Sacramento advocates will oppose AB 1987, unless amended as described above.**

The measure is sponsored by State Controller John Chiang. It is supported by the California Federation of Teachers, the Glendale City Employees Association, the Peace Officers Research Association of California, the San Bernardino Public Employees Association, the San Luis Obispo County Employees Association and the Santa Rosa City Employees Association. It is opposed-unless-amended by the California Association of School Business Officials, CSAC, and the Judicial Council of California.

AB 1987 passed the Assembly Floor by a vote of 75 to 0 on June 3, 2010. This measure is scheduled for a hearing today in Senate Public Employment and Retirement Committee.

SB 1236 (Alquist), which as amended on June 10, 2010, would allow public hospitals that use county and local funds to draw down matching Federal funds to conduct internal reviews of Treatment Authorization Requests (TARs).

Current law requires county health departments operating public hospitals to submit TARs to the California Department of Health Care Services (CDHCS) to obtain payment authorization for inpatient and outpatient services provided to Medi-Cal patients. The

TARs include the patient's medical diagnosis, severity of illness and service intensity and is used to justify each hospital day as medically necessary. The TARs process was established to reduce waste and fraud in the Medi-Cal Program.

SB 1236 would eliminate the requirement that the CDHCS reviews TARs, and instead, would give public hospitals the option to establish an internal review process. The bill would require CDHCS to seek Federal waivers and plan amendments to streamline the TARs process or develop pilot programs to increase efficiency. The measure would apply only to 22 designated public hospitals that use local funds to draw down matching Federal funds.

The Department of Health Services (DHS) notes that the current process TARs process is expensive and cumbersome and often results in delayed reimbursement to the County. According to DHS, SB 1236 would improve the TARs process, eliminate administrative requirements to submit TARs to CDHCS, result in more efficient use of scarce resources and improve the County's cash flow by expediting Medi-Cal reimbursements.

The Department of Health Services and this office support SB 1236. Therefore, consistent with existing Board policy to support proposals to improve the Medi-Cal TARs process, **the Sacramento Advocates will support SB 1236.**

SB 1236 is supported the Association of Public Hospitals and Health Systems, California Children's Hospital Association, California Medical Association, California State Association of Counties, County of San Bernardino, and County of Santa Clara. There is no registered opposition on file.

SB 1236 passed the Assembly Health Committee by a vote of 18 to 0 on June 15, 2010. The measure is awaiting a hearing in the Assembly Appropriations Committee.

Status of County-Sponsored Legislation

County-sponsored AB 139 (Brownley), which as amended on April 28, 2010, would amend Government Code to permit a county board of supervisors to hold one or more regular meetings of the board at a location within the county other than the county seat and provide notice in a location accessible to the public, passed the Assembly Floor by a vote of 70 to 0 on June 17, 2010. This measure now proceeds to the Governor.

County-sponsored SB 179 (Runner), which as amended on May 20, 2010, would streamline the Termination of Parental Rights appeals process and promote adoptions, passed the Assembly Floor by a vote of 75 to 1 on June 21, 2010. This measure now

proceeds back to the Senate for concurrence with the amendments taken in the Assembly.

County-sponsored SB 878 (Liu), which as amended on June 10, 2010, would enhance the County's existing homeowner notification program, passed the Assembly Local Government Committee by a vote of 7 to 2 on June 16, 2010. This measure now proceeds to the Assembly Floor.

We will continue to keep you advised.

WTF:RA
MR:VE:IGEA:sb

c: All Department Heads
Legislative Strategist
Local 721
Coalition of County Unions
California Contract Cities Association
Independent Cities Association
League of California Cities
City Managers Associations
Buddy Program Participants